

- L. You may request an extension of up to 20 days to file a Level 1 grievance by writing to the Office of the Warden. You may request an extension of up to 20 days for a Level 2 grievance by writing to the Office of the Director through the Departmental Grievance Coordinator. When the subject matter of a grievance is of a complex nature, the Director or designee may extend the grievance procedure for up to 180 days from the filing of Level 1.

M. You may not file a grievance for the following:

- Decisions of the Discipline Board;
- Decisions of qualified medical personnel related to your health;
- Unlawful acts committed by you;
- Decisions of the Classification Board;
- State and Federal laws and regulations;
- Formulation of Departmental policies;
- Designation of an inmate as a Security Risk or Protective Custody inmate;
- Matters beyond the control of the RIDOC, including decisions of the Parole Board.

- N. An inmate who files five (5) or more grievances in a week or twenty (20) or more in any consecutive 180-day period may be determined to be abusing the Inmate Grievance Procedure.

- O. Invalid or fraudulent grievances will result in disciplinary action.

- P. Filing of frivolous grievances may result in the suspension in the right to file.

#### INMATE ACCOUNTS EXPENDITURES and DEPOSITS

With the approval of the 7-3 Shift Commander, inmates may withdraw funds from their accounts for expenditures as follows:

1. Remittances to dependents and/or members of the immediate family.
2. Remittances to others if the purpose is for personal debt incurred prior to confinement, the support of immediate family or approved bank deposit.
3. Subscriptions to approved periodicals, newspapers, and books. **MUST BE ORDERED DIRECTLY FROM THE PUBLISHER, DESIGNATED BOOKSTORES** and must be accomplished by utilizing an inmate money transfer slip

4. Purchase of Eyeglasses. (Only RIDOC medical approved)
5. Payment for copyrights, birth certificates, license renewals, and legal documents.
6. Purchase of U.S. Savings Bonds
7. Payment of income tax
8. Postage - certified mail on large heavy items such as legal material, which requires more than one postage stamp.
9. Purchase of educational material recommended for approval by the Education Department.
10. Payments for lost or stolen state property
11. Purchase of Bible or other religious literature approved by the chaplain
12. Repairs of watches and eyeglasses and dentures
13. Bail, legal fees, or court costs;

Funds will not be sent to another inmate or be used for C.O.D. purchases. Funds may be sent to an immediate family member who is also incarcerated with permission of the 7-3 Shift Commander. For items not authorized for inmate possession, request must specify the individual's name and address to which the item will be sent. Requests of funds will normally be for full payment of items purchased.

Remittances to dependents, members of the immediate family or to others are with approval of the 7-3 Shift Commander. The name listed and address of person to receive the funds must appear on your current approved visiting list. Transfer slip must be submitted with a stamped, addressed envelope.

#### INMATE WORK DETAILS

The following jobs are available for inmates as vacancies occur. A job application must be submitted for consideration.

STATE of RHODE ISLAND and PROVIDENCE PLANTATIONS  
DEPARTMENT of CORRECTIONS  
INTER - OFFICE MEMORANDUM



TO: Leonard Jefferson #58330  
BLDG/CELL: Max P1-96

DATE: June 13, 2016

FROM: Matthew Kettle, Warden  
DEPT: Maximum / High Security

SUBJECT: Response to Letters received 6/13/16

I have denied your request to wear your kufi in all areas of the prison at all times. I also noticed that you submitted a grievance on this issue with this request without waiting for a response. I will further address this matter in your grievance.

I now consider this matter closed.

INSTITUTIONAL REQUEST FORM

TO: WARDEN KETTLE

DATE: JUNE 6, 2016

I RESPECTFULLY REQUEST: THAT THE A.C.I. ACCOMMODATE MY RIGHT -- PURSUANT TO THE  
RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT, 42 U.S.C. § 2000-CC 5(7)(A)  
-- TO WEAR MY KUFU IN ALL AREAS OF THE PRISON AT ALL TIMES, SUBJECT TO STANDARD  
CONTRABAND SEARCHES. THANK YOU FOR YOUR ATTENTION TO THIS REQUEST.

INMATE NAME: LEONARD C. JEFFERSON

INMATE ID: 58330

WORK ASSIGNMENT: DINING ROOM PACKER

CELL NUMBER: P/1-96

OFFICERS SIGNATURE: SIGNED BY C.O. PRATT

SUPERIOR'S RESPONSE: \_\_\_\_\_

LIEUTENANT'S SIGNATURE: \_\_\_\_\_

ATTACHMENT 2

## Rhode Island Department of Corrections

Attachment 2  
Page 1 of 1

## REQUEST FOR RESOLUTION OF GRIEVANCE

Instructions: Type or print using a ballpoint pen. All information must be legible on all copies. If more space is needed, attach additional sheets in quadruplicate. Attach copy of previous Form (Informal Resolution Form).

To : Level 1, Warden Level 2, Director

From : LEONARD JEFFERSON C 58330

(name) First Last MI RIDOC ID #

Facility: ISC HSC MAX MED MED II MIN WR WOM/DIX COM.COMF.

(circle one)

## PART A - INTAKE REQUEST

Facility where alleged incident occurred : MAXIMUM

Grievance / Complaint : AS USUAL, DURING MUSLIM SERVICES IN THE DINING ROOM ON 6/4/16, WE WERE ALLOWED TO WEAR OUR KUFIS. AT AROUND 2015 HRS ON 6/6/16 AFTER I ENTERED THE DINING ROOM TO EAT THE RAMADAN MEAL I PUT MY KUFIL ON. 6 OR 7 C.O.S IMMEDIATELY STARTED YELLING AT ME AND I WAS TOLD TO "TAKE THAT FUCKING THING OFF YOUR HEAD." STAFF ACTED WITH COMPLETE DISRESPECT AND DISDAIN TOWARD MY RELIGIOUS BELIEFS AND TRADITIONS IN VIOLATION OF MY RIGHTS UNDER 42 U.S. C. § 2000-CC5(7)(A). I WILL CONSIDER THIS GRIEVANCE RESOLVED WHEN I RECEIVE PERMISSION TO WEAR MY KUFIL AT ALL TIMES AND PLACES IN ACCORDANCE WITH MY RELIGIOUS BELIEFS AND LEGAL RIGHTS.

JUNE 6, 2016  
Date

Leonard C. Jefferson  
Inmate's Signature

6/13/16  
Date Received

WARDEN M. White  
Staff Member's Signature

(mailed)

## PART B - RESPONSE

6/14/16  
Date Received

Warden M. White  
Signature - Associate Director  
Warden

After reviewing the investigation I determined that this inmate's perception of the incident does not appear to coincide with the images I observed on the closed circuit video. The inmate enters the dining room and puts on his kufi in front of the Lieutenant. The Lieutenant addresses the situation and the inmate removes the kufi. There is only one other staff member in the area and he does not appear to be engaged in the discussion. I did not observe the "6 or 7" officers described by this inmate in his statement. Religious articles are not allowed to be worn in the dining room during meals. However religious articles may be authorized during an authorized religious service in the area other than meal times. Therefore this grievance is denied.

6/14/16  
Date

Warden M. White  
Associate Director - Warden

## Distribution:

Level 1: White - Warden: Canary - Dept. Griev. Coord.: Pink - Inmate: Goldenrod - Inmate  
Level 2: White - Dept. Griev. Coord.: Canary - Warden: Pink - Inmate: Goldenrod - Inmate

ATTACHMENT 3



Rhode Island Department of Corrections  
REQUEST FOR RESOLUTION OF GRIEVANCE

*log v*  
**Instructions:** Type or print using a ballpoint pen. All information must be legible on all copies. If more space is needed, attach additional sheets in quadruplicate. Attach copy of previous Form (Informal Resolution Form).

To : Level 1, Warden (circle one) Level 2, Director

From : LEONARD JEFFERSON C 58330  
(name) First Last MI RIDOC ID #

Facility: ISC HSC MAX MED MED II MIN WR WOM/DIX COM.COMF.  
(circle one)

PART A - INMATE REQUEST

Facility where alleged incident occurred : MAX

Grievance / Complaint : 1. GRIEVANT ARGUES THAT AN INDEPENDENT REVIEW OF ALL AVAILABLE VIDEO WILL DISCLOSE VIOLATIONS OF D.O.C. POLICY 3.14-2 AND SUPPORT HIS ORIGINAL CLAIM.  
2. RI D.O.C. POLICY 26.01-3 REQUIRES ADMINISTRATORS AND STAFF TO ALLOW GRIEVANT TO WEAR HIS KUFEL AT ALL PLACES AND TIMES, SUBJECT TO CONTRABAND SEARCHES PURSUANT TO POLICY, BECAUSE THERE IS NOT A SINGLE LEGITIMATE SECURITY-RELATED-REASON WHICH WOULD JUSTIFY RESTRICTING THIS EXERCISE OF HIS RELIGION, HIS RELIGIOUS BELIEFS, AND/OR HIS CONSTITUTIONAL RIGHTS.

JUNE 22, 2016 Leonard C. Jefferson  
Date Inmate's Signature

Date Recieved Staff Member's Signature

PART B - RESPONSE

Date Received

Signature - Associate Director  
Warden

Departmental policy (#26.01-3 DOC, Religious Programs and Services) does not require Rhode Island Department of Corrections personnel to allow inmates to wear religious garments throughout the facility. In fact it does read, "All inmates have the right to the free exercise of their religious beliefs and the liberty of worship according to the dictates of the consciences. However, the exercise of this right may be restricted for legitimate security reasons." Therefore, this grievance is denied.

7-14-16  
Date

*[Signature]*  
Associate Director - Warden  
on behalf of  
Cory Cloud.



LabCorp Raritan  
69 First Avenue, Raritan, NJ 08869-1800

Phone: 800-631-3250

SPECIMEN 073-631-0100-0	TYPE S	PRIMARY LAB RN	REPORT STATUS COMPLETE	Page #: 1
ADDITIONAL INFORMATION				
MAX		FASTING: N DOB: 2/28/1948		
PATIENT NAME JEFFERSON, LEONARD		SEX M	AGE(YR./MOS.) 66 /	
PT. ADD.:				
DATE OF COLLECTION TIME 3/14/2014 9:15	DATE RECEIVED 3/15/2014	DATE REPORTED 3/20/2014	TIME 12:05	4241
TEST		RESULT		

CLINICAL INFORMATION CD-14008745239		
PHYSICIAN ID. BLANCHETTE	NR1	PATIENT ID. 058330
ACCOUNT: ACI Men Dept of Cor-Bur Off-Med Claim Staff House 5169 Cranston RI 02920-0000		
ACCOUNT NUMBER: 38381013		
LIMITS		LAB

HCV RT-PCR, Quant (Non-Graph) C1  
Hepatitis C Quantitation  
834,570 IU/mL  
HCV log10 5.921 log10 IU/mL 01  
01

#### Test Information:

The quantitative range of the assay is 15 IU/mL to 100 million IU/mL using COBAS(R) TagMan(R) HCV test, v 2.0. The limit of detection (LOD) and lower limit of quantification (LLOQ) for this assay is 15 IU/mL. Results less than the quantitative range of the assay will be reported as "HCV RNA detected, less than 15 IU/mL".

#### HCV Genotyping Non Reflex

Hepatitis C Genotype 1b See Note 02  
This assay can detect the six (6) major HCV Genotypes and their most common subtypes.

Several clinical studies have demonstrated that Genotype 1 HCV may be more refractory to interferon monotherapy as well as to interferon plus ribavirin combination therapy. Sustained response rates are increased for Genotype 1 infected patients when therapy is given for 48 weeks instead of 24 weeks.

#### Please note:

This test was developed and its performance characteristics determined by LabCorp. It has not been cleared or approved by the U.S. Food and Drug Administration.

The FDA has determined that such clearance or approval is not necessary. This test is used for clinical purposes. It should not be regarded as investigational or for research.

LAB: 01 RN LabCorp Raritan 69 First Avenue, Raritan, NJ 08869-1800	DIRECTOR: Araceli B Reyes MD
LAB: 02 BN LabCorp Burlington 1447 York Court, Burlington, NC 27215-3361	DIRECTOR: William F Hancock MD

Pt Name: JEFFERSON, LEONARD	Pt ID: 058330	Spec #: 073-631-0100-0	Seq #: 4241
-----------------------------	---------------	------------------------	-------------

Results are Flagged in Accordance with Age Dependent Reference Ranges

Last Page of Report

LCM Version: 03.26.01

ATTACHMENT 5

Accepted by Blanchette, Edward A. 04/10/14 12:47:49 PM

Apr 1 2014 03:59pm

**RHODE ISLAND  
DEPARTMENT OF HEALTH LABORATORIES**

50 Orms Street  
Providence, RI 02904  
Phone: (401) 222-5600

ATTN: Blanchette, Edward A

Patient: JEFFERSON, LEONARD

ACI Medical Records Dept-23900  
Box 8249  
Cranston, RI 02920

, RI  
Med Rec #: 2167192  
Birthdate: 1948 66 years Male  
Chart #: 58330

Copied to:

Ordering Medical Provider: Blanchette, Edward A

**Serology**

**Hepatitis**

Collect Date: 3/14/2014

Procedure  
ANTIBODY TO HEPATITIS C REACTIVE \*f

3/14/2014 ANTIBODY TO HEPATITIS C:

Patient results indicate a high signal-to-out-off ratio. This indicates past or present HCV infection; supplemental serologic testing not performed. Samples with high signal-to-out-off ratios usually (>95%) confirm positive with supplemental testing, but <5 of every 100 might represent false positive. If indicated, a reference lab can perform more specific supplemental testing (MMWR February 7, 2003 / 52(RR03); 1-16)

Patient Name: JEFFERSON, LEONARD

Printed: 4/7/2014

Pages 1 of 1

## Legend:

\* = Abnormal      Source V=Venous F=Fingerstick  
f = Footnote      c=Corrected  
H=High Limit Exceeded

ATTACHMENT 6



PATIENT: LEONARD JEFFERSON  
 DATE OF BIRTH: 1948  
 DATE: 09/09/2014 10:20 AM  
 VISIT TYPE: Provider Visit-scheduled

#### History of Present Illness

##### Comments:

Here about his ear

Asking about hepatitis c. He is positive, but lfts are good.

#### Chronic Problems

Chronic hepatitis C without mention of hepatic com

#### Past Medical/Surgical History

<u>Condition</u>	<u>Year</u>	<u>Procedure/Surgery</u>	<u>Year</u>
------------------	-------------	--------------------------	-------------

#### Diagnostics History

<u>Test</u>	<u>Date Ordered</u>	<u>Status</u>	<u>Results</u>
12 lead EKG	03/07/2014	ordered	

#### Medications Active Prior to Today's Visit

<u>Drug Name</u>	<u>Dose</u>	<u>Qty</u>	<u>Description</u>
------------------	-------------	------------	--------------------

#### Allergies

<u>Allergen/Ingredient</u>	<u>Brand</u>	<u>Reaction:</u>
----------------------------	--------------	------------------

#### Vital Signs

##### Physical Exam

Ears: Hearing grossly intact. Tympanic membranes normal.

Abdomen: Soft, non-tender without organomegaly or masses.

#### Comments

eras are fine. I discussed hepatitis C, his LFTs are good, no therapy at this time

ATTACHMENT 7-1

JEFFERSON, LEONARD

1948

1/2



**Assessment/ Plan**

Hepatitis delta without mention of active hepatitis B disease, with hepatic coma, hepatitis delta with hepatitis B carrier state (070.42)

**Medications (added, continued or stopped this visit)**

<u>Drug Name</u>	<u>Dose</u>	<u>Qty</u>	<u>Description</u>
------------------	-------------	------------	--------------------

Document generated by: Fred Vohr MD 09/09/2014 10:30 AM

State of Rhode Island  
Department of Corrections  
40 Howard Avenue, Cranston, RI 02920

ATTACHMENT 7-2





PATIENT: LEONARD JEFFERSON  
 DATE OF BIRTH: /1948  
 DATE: 07/19/2016 02:45 PM  
 VISIT TYPE: Provider Visit-scheduled

#### History of Present Illness:

This 68 year old male presents with:

1. chronic hepatitis C (follow-up)

Mr. Jefferson is a 68 yo M w/ hx of CKD stage I, BPH s/p prostatectomy, HTN, and chronic hepatitis C who presents for initial evaluation of chronic hepatitis C.

Pt was initially diagnosed with chronic hepatitis C in 1994, unsure how he acquired this virus. He has never had any blood transfusions or surgery internationally, has a son with hepatitis but unsure of what type, no known HCV infected partners. He has never previously been treated. Reports he feels "alright", no leg swelling, abdominal swelling jaundice or yellowing of his eyes. Eats well, no nausea or vomiting. Hx of coughing up blood x 1, no hematemesis, no fever/chills or weight loss. No melena or BRBPR.

Pt was HIV negative in 2013, doesn't drink ETOH, no other known liver disease or liver disease in family hx aside from his son. Reports he is very confident he was previously vaccinated against both hep A and B in the past, "I keep on top of my health".

Pt's HCV VL was 834,570, genotype was 1b. APRI on 6/22/16 was 0.518. 1/16/15 AFP was 4.9, no prior liver imaging.

Pt would also like to discuss recent ENT and pulmonary work-up and the results of this.

#### Problem List (not yet mapped to SNOMED-CT®):

Problem Description	Onset Date	Notes
---------------------	------------	-------

Chronic hepatitis C without mention of hepatic com	03/07/2014	
--	------------	--

#### PAST MEDICAL/SURGICAL HISTORY (Detailed).

Disease/disorder	Onset Date	Management	Date	Comments
------------------	------------	------------	------	----------

#### Social History: (Detailed)

CAFFEINE

JEFFERSON, LEONARD C., 1948 07/19/2016 02:45 PM 1/3

ATTACHMENT 8-1

The patient does not use caffeine. No ETOH.

**Allergies**

Ingredient	Reaction	Medication Name	Comment
------------	----------	-----------------	---------

**Review of Systems**

System	Neg/Pos	Details
Constitutional	Comments	As per above in HPI, otherwise negative. See HPI.

**Vital Signs**

Time	BP mm/Hg	Pulse /min	Resp /min	Temp F	Ht ft	Ht in	Wt lb	Wt kg	BMI kg/m2	BSA m2	O2 Sat%
2:56 PM		60			5.0	7.00					

**Measured By**

Time	Measured by
2:56 PM	Amanda Noska MD

General: Alert, well-nourished male in no distress.

HEENT: No thrush, minimal erythema in right posterior pharynx. Fair dentition. No oral ulcers or tongue lesions.

Resp: CTAB, no wheezing or rales.

CV: regular, rate, normal S1, S2. No murmur.

Ext: No LE swelling. Otherwise as per below.

Skin: No jaundice, sun tan over visible regions of skin, no palmar erythema.

Neuro: Alert, interactive, no asterixis.

Abd: No venous collaterals, no hepatomegaly or splenomegaly, non-tender throughout, active bowels.

**Assessment/Plan**

#	Detail Type	Description
1.	Assessment	Chronic hepatitis C without mention of hepatic coma (070.54).

**Plan comments:**

1. Chronic hepatitis C genotype 1B, early stage liver disease (APRI 0.518 on 6/22/16), treatment naive:

- Hepatitis B serologies (HBsAg, HBsAB, HBcoreTotal AB)
- Pt reports he has been vaccinated against hep A and B
- APRI is 0.518, not c/w advanced liver disease but rather suggests early stage liver disease; pt was discussed at the Hep C Committee meeting and will proceed with annual CBC and LFTs to monitor closely for now
- If hep B labs suggest co-infection with both HBV and HCV, pt may be higher on the priority list for treatment

Medications *(Added, Continued or Stopped today)*

Start Date	Medication	Directions	PRN	PRN Reason	Instruction	Stop Date
------------	------------	------------	-----	------------	-------------	-----------

Document generated by: Amanda Noska MD 07/19/2016 02:59 PM

---

Rhode Island Department of Corrections



IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

LEONARD C. JEFFERSON,  
Plaintiff,

V.

Case No.

ASHBEL T. WALL, Director of Rhode  
Island Department of Corrections;  
CORY CLOUD, Grievance Coordinator  
at Rhode Island Adult Correctional  
Institution; MATTHEW KETTLE, Associate  
Director/Warden of the Adult Correctional  
Institution's Maximum Security Building;  
LT. AMARAL, Correctional Officer at the  
Adult Correctional Institution; DR.  
JENNIFER CLARKE, Medical Program Director  
at the Adult Correctional Institution;  
DOCTORS AMANDA NOSKA, MICHAEL POSHKUS,  
and CHRISTOPHER SALAS, Members of Rhode  
Island Department of Corrections Hepatitis  
C Committee;

Defendants.

**MOTION FOR PRELIMINARY INJUNCTION**

**AND REQUEST FOR EVIDENTIARY HEARING**

Plaintiff Leonard C. Jefferson, pro se, pursuant to Rule 65, Fed.R.Civ.P., moves this Court to issue a preliminary injunction ordering Defendant Ashbel T. Wall, and his successor in office, agents and employees, to (i) immediately allow Plaintiff to wear his kufi in all areas of the Adult Correctional Institution (ACI) at all times, subject to searches pursuant to existing ACI Policies, and (ii) immediately begin providing Plaintiff with the treatment that is medically-indicated to cure his hepatitis C, and to continue said treatment until the cure has been achieved; and to set a date for a hearing on this Motion.

The grounds for this Motion, as set forth in the accompanying MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION, are as follows:

1. The Defendants -- by enforcing Rhode Island Department of Corrections (RI DOC) Policy # 26.01-3, Religious Services and Programs, in a manner which prohibits Plaintiff from wearing his kufi, except in his cell and at some Islamic Services, while other RI DOC Policies and/or practices require Dietary Workers to wear hats at all times and places in the ACI -- have, in a discriminatory manner, imposed a substantial burden upon Plaintiff's religious exercise, in the absence of a compelling governmental interest, and, by doing so, have violated, and continue to violate Plaintiff's rights under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. section 2000cc et al.

2. The Defendants -- by following official RI DOC Policies and practices which cause them to monitor Plaintiff's hepatitis C; and, for non-medical reasons, to deny Plaintiff's requests to receive the treatment which is available and known to cure the type of hepatitis that Plaintiff has -- have shown, and continue to show, "deliberate indifference" to Plaintiff's "serious medical needs" which constitutes the "unnecessary and wanton infliction of pain" that is proscribed by the Eighth Amendment of the U.S. Constitution. WHEREFORE, Plaintiff prays this Court grant this Motion.

Respectfully submitted

*Leonard C. Jefferson, pro se*  
Leonard C. Jefferson, pro se

12-6-16

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

LEONARD C. JEFFERSON,  
Plaintiff,

V.

Case No.

ASHBEL T. WALL, Director of Rhode  
Island Department of Corrections;  
CORY CLOUD, Grievance Coordinator  
at Rhode Island Adult Correctional  
Institution; MATTHEW KETTLE, Associate  
Director/Warden of the Adult Correctional  
Institution's Maximum Security Building;  
LT. AMARAL, Correctional Officer at the  
Adult Correctional Institution; DR.  
JENNIFER CLARKE, Medical Program Director  
at the Adult Correctional Institution;  
DOCTORS AMANDA NOSKA, MICHAEL POSHKUS,  
and CHRISTOPHER SALAS, Members of Rhode  
Island Department of Corrections Hepatitis  
C Committee;

Defendants.

**ORDER TO SHOW CAUSE AND PRELIMINARY INJUNCTION**

Upon the (i) prayer of the Complaint, (ii) sworn allegations of the Complaint,  
(iii) Plaintiff's Motion for Preliminary Injunction, and (iv) the Memorandum of  
Law in Support of Plaintiff's Motion for a Preliminary Injunction it is

**ORDERED** that Defendant Wall, or his successor in office, show cause in  
Room \_\_\_\_\_ of the United States Courthouse, Federal Building, Kennedy Plaza,  
Providence, RI, on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, at \_\_\_\_\_  
o'clock, why a Preliminary Injunction should not issue pursuant to Rule 65,  
Fed.R.Civ.P., requiring Defendant Wall, his successor in office, agents and  
employees to (i) immediately allow Plaintiff to wear his kufi in all areas of  
the Adult Correctional Institution (ACI) at all times, subject to searches  
pursuant to existing ACI Policies; and (ii) immediately begin providing  
Plaintiff with the treatment that is medically-indicated to cure his hepatitis  
C, and continue said treatment until the cure has been achieved.



IT IS FURTHER ORDERED that this order to show cause, and all other papers attached to this application, shall be served upon Defendant Wall -- at the Rhode Island Department of Corrections, Office of the Director, 40 Howard Avenue, Cranston, RI 02920 -- by \_\_\_\_\_, 201\_\_\_\_, and the United States Marshal Service is hereby directed to effectuate such service.

Date:

\_\_\_\_\_  
United States District Judge J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

LEONARD C. JEFFERSON,  
Plaintiff,

V.

Case No.

ASHBEL T. WALL, Director of Rhode  
Island Department of Corrections;  
CORY CLOUD, Grievance Coordinator  
at Rhode Island's Adult Correctional  
Institution; MATTHEW KETTLE, Associate  
Director/Warden of the Adult Correctional  
Institution's Maximum Security Building;  
LT. AMARAL, Correctional Officer at the  
Adult Correctional Institution, DR.  
JENNIFER CLARKE, Medical Program Director  
at the Adult Correctional Institution;  
DOCTORS AMANDA NOSKA, MICHAEL POSHKUS,  
and CHRISTOPHER SALAS, Members of Rhode  
Island Department of Corrections Hepatitis  
C Committee;

Defendants.

MEMORANDUM OF LAW IN SUPPORT OF  
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Statement of Case

This is a civil rights action under 42 U.S.C. section 1983 by a state prisoner who alleges his rights -- under the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C.S. 2000cc-1 et seq., the First, Eighth, and Fourteenth Amendments of the United States Constitution -- have been , and continue to be, violated by the prison officials named above in the caption. Plaintiff seeks injunctive relief to cause the Defendants to immediately ensure that (i) Plaintiff is permitted to wear his kufi at all times and places in the Adult Correctional Institution (ACI), and (ii) that the Defendants immediately provide the medically-indicated treatment to cure his hepatitis C.

Statement of Facts

As stated in the Verified Complaint filed with this Motion:

In support of the RLUIPA, First and Fourteenth Amendment claims, Plaintiff alleges that: he converted to the Religion of Islam in 1977 (paragraph 16, Complaint)(all following numbers refer to paragraphs of the Complaint); he actively participated in Islamic activities at the ACI between his 1977-conversion and his 1985 parole-release from the ACI (17 & 18); he was reimprisoned, in Pittsburgh, PA, in 1993 (20); and subsequently sentenced to serve a twenty (20) year prison term in custody of the Pennsylvania Department of Corrections (PA DOC) (23); Rhode Island's Parole Board revoked Plaintiff's parole-permit, made him permanently ineligible for parole, and, since 11/10/94, caused his Rhode Island sentence to be a sentence of life imprisonment without a possibility of parole (24); on 11/03/13 Plaintiff completed his Pennsylvania prison term (25) and on 11/05/13 Rhode Island Sheriffs transported him from a PA DOC facility to the ACI (26); Plaintiff wore a kufi at all times during his 11/05/13 transfer (27); upon arriving at the ACI, he was informed that, per RI DOC Policy, he had to choose between mailing the kufi out or having RI DOC staff destroy it, Plaintiff paid the postal fee to mail it out ( 28 & 29); on or about 12/07/13 Plaintiff took possession of the kufi he ordered from KEEFE'S COMMISSARY (31) and from that date to the date on the Complaint (Doc. 1) he has been prohibited from wearing it at all places and times, except in his cell and at some Islamic Services (32); he has participated in every Islamic ritual, available to him, from his 11/05/13 arrival at the ACI up to the date on which he filed the Complaint in this case (33, 34 & 36); he believes he receives blessings from observing the Islamic Tradition of keeping his head covered at all times (37); pursuant to PA DOC Policy, Plaintiff, and more that 10,000 other Muslims in PA DOC custody, was permitted to wear his kufi at all times



places in PA DOC facilities, except during routine searches and in transit between facilities (38); Plaintiff wore a kufi at all times and places in PA DOC facilities between his 07/03/94 commitment to PA DOC custody and his 11/05/13 transfer to the ACI (39); he believes he is being deprived of blessings as a result of RI DOC Policies which prohibit him from keeping his head covered at all times (40 & 44); Plaintiff's sense of feeling deprived of blessings is heightened by seeing televised images of Muslims, observing the tradition of keeping their heads covered, including images of Muslims (who have no rights under the U.S. Constitution) while imprisoned in the U.S. Government prison (Camp Delta) at Guantanamo Bay, Cuba; and Muslims (who enjoy protection of the U.S. Constitution) while imprisoned in U.S. Federal Prisons (41 & 42); per RI DOC Policy and/or practice, Dietary Workers are required to wear hats in all areas of the Old Maximum Security Building (Max) at all times (45), including when they are eating their meals in the dining room (46); per RI DOC Policy and/or practice Dining Room Packers are required to wear hats in the dining room (47); Plaintiff has been employed as a Dining Room Packer, continuously, from 04/13/16 up to the date upon which he filed the Complaint in this case (48 & 49) and has been required, per Policy and/or practice, to wear a hat while performing his Dining Room Packer duties (50); on Saturday, 06/04/16, Plaintiff wore his kufi without any interference from the C.O. supervising the Islamic Service in the dining room (53); on Monday, 06/06/16 -- the first day of Ramadaan, the Islamic month of fasting -- Plaintiff submitted a Request to Defendant Kettle requesting permission, pursuant to 42 U.S.C. section 2000cc-5(7)(A), to wear his kufi in all areas of the ACI (55 - 57); after entering the dining room, and dropping the Request in the mail box, Plaintiff put his kufi on his head (58 & 59); some of the C.O.s immediately began yelling at Plaintiff, telling him to take off the kufi (60); Plaintiff responded, telling

the C.O.s that Muslims are routinely allowed to wear kufis in the dining room at Islamic Services, as he had been allowed to do so two (2) days earlier (61); all of the C.O.s immediately began yelling at Plaintiff, one telling Plaintiff to "take that f-----g thing off your head" (62); Plaintiff, fearing adverse consequences in the event that he continued asserting his right to wear his kufi at the Ramadaan meal, removed the kufi (63); Defendant Amaral then told Plaintiff to take the issue up with his superiors (64); Defendant Kettle, in response to Plaintiff's LEVEL 1 Grievance, informed Plaintiff that "religious articles are not allowed to be worn in the dining room during meals..." (68); RI DOC Policy does not prohibit prisoners from wearing crosses, and/or similar religious articles/medallions, in the dining room (69); on 06/06/16, per Policy and/or practice, Dietary Workers were required to wear hats while eating their breakfast, lunch, and supper in the dining room (70); and, in response to Plaintiff's LEVEL 2 Grievance, Defendant Cloud informed Plaintiff that "Department Policy (#26.01-3, Religious Programs and Services) does not require Rhode Island Department of Corrections Personnel to allow inmates to wear religious garments throughout the facility." (72).

In support of his Eighth and Fourteenth Amendment medical claims Plaintiff alleges that: upon being committed to the ACI on 11/05/13 he told RI DOC Nurse Michelle Garriepy that he suffers from hepatitis C (73); during a Health Assessment, performed by RI DOC Nurse-Practitioner Kim Seleyman, on 03/07/14, Plaintiff requested treatment for his hepatitis C and Nurse Seleyman ordered blood tests to determine the precise nature of his hepatitis (74 & 75); on 03/14/14 blood was drawn from Plaintiff for the above mentioned tests (76); on 03/25/14 RI DOC Treating Physician Dr. Edward Blanchette received a report from LAB CORP, and on 04/10/14 a report from the Rhode Island Department of Health Laboratories, which present the results of the tests performed on Plaintiff's blood (77 & 78); said lab reports informed RI DOC medical staff that

Plaintiff suffers from a type of hepatitis C which can be cured by a known and available treatment (79 & 80); on 09/09/14 then-Medical Program Director Dr. Fred Vohr told Plaintiff that a new, less expensive, treatment would be available within a year and, when it became available, the RI DOC would provide treatment for Plaintiff's hepatitis C (81); Plaintiff repeated his request for treatment on 05/10/16 (82) and was seen by RI DOC Treating Physician Dr. Edward Blanchette on 05/31/16 (83); on 05/31/16 Dr. Blanchette referred Plaintiff's request, for treatment, to the RI DOC's Hepatitis C Committee (84); at some time between 05/31/16 and 07/19/16 the members of the Hepatitis C Committee reached their conclusion that RI DOC Policy required them to deny Plaintiff the treatment he requested for his hepatitis C (85 & 86); and, during a 07/19/16 examination, Defendant Noska informed Plaintiff of the Committee's decision to deny his request for treatment, informed Plaintiff that the Committee would continue to monitor the progression of his hepatitis C, acknowledged to Plaintiff that untreated hepatitis C leads to liver cancer and death, and informed Plaintiff that RI DOC Policy, and the high cost of the treatment, were the reasons that caused the Committee to deny his request for treatment.

#### ARGUMENT

##### POINT 1

#### THE PLAINTIFF IS ENTITLED TO THE PRELIMINARY INJUNCTION HE SEEKS

In determining whether a party is entitled to a preliminary injunction courts generally consider several factors. The moving party must demonstrate: (1) a substantial likelihood of success on the merits; (2) a significant risk of irreparable harm if the injunction is withheld; (3) a favorable balance of hardships; and (4) a fit (or lack of friction) between the injunction and the public interest. Nieves-Marquez v. Puerto Rico, 353 F.3d 108, 120 (1st Cir. 2003)(preliminary injunction), A person seeking an interim injunction



bears the burden of demonstrating that each of the four factors weigh in his favor. Letourneau v. Aul, No., 2015 WL 5167854, at \* 2.

A. There is a substantial likelihood that Plaintiff will  
prevail on the merits of his claims

Regarding his RLUIPA, First and Fourteenth Amendment claims, Plaintiff has a great likelihood of success on the merits. What the Defendants have done here -- i.e., to enforce a policy which prohibits Plaintiff from wearing his kufi at all times and places, except inside his cell and at some religious services -- has been specifically singled out, and identified, by the Supreme Court as an example of an unconstitutional substantial burden on exercise of religion. Holt v. Hobbs, 135 S.Ct 853, 862, 190 L.Ed.2d 747 (2015). Additionally, Plaintiff has alleged that: (i) as a "Dining Room Packer" he is required, by RI DOC Policy and/or practice, to wear a hat in the dining room, but the Defendants prohibited him from wearing his kufi in the dining room during the thirty (30) Iftar meals, in the dining room, during the 2016 observance of Ramadaan; and (ii) RI DOC Policy and/or practice mandates that Dietary Workers wear hats at all times and places in the prison while RI DOC Policy prohibits Plaintiff from wearing his kufi in all areas of the jail, except inside his cell and at some Islamic Services. Courts have held that prison officials failed to meet their burden, of demonstrating that the policies restricting the wearing of kufis, were the "least restrictive means" of accomplishing governmental interest, in situations where secular head coverings were permitted. See Ajala, 106 F.Supp. 3d at 982 - 987 (prison that allowed secular hats failed to show that allowing kufi would trigger tensions and materially increase searching); Ali v. Stephens, 69 F.Supp. 3d 633, 644 - 49 (E.D. Tex. 2014) (prison's justification for kufi ban rejected as speculative "post hoc rationalizations" because it failed to address more lenient policies used by

other prison systems and failed to explain why secular hats, which were sometimes permitted, did not cause same concerns); Malik v. Ozmit, No. 8:07-387 RBH-BHH, 2008 WL 701517, at\* 11 (D.S.C. Feb. 13, 2008)(with unexplained evidence that other inmates were allowed to wear caps, hoods and hats outside of their cells, fact issue existed as to whether kufi ban was least restrictive means to prevent smuggling of contraband), adopted, 2008 WL 701394 (D.S.C. Mar. 13, 2008), aff'd, 289 F.App'x 662 (4th Cir. 2008); Aziyz v. Tremble, No. CIV A 5:03CV-412 HL, 2008 WL 282738, at\*2,\*6 (M.D. Ga. Jan. 31 2008)(kufi ban plainly not least restrictive alternative to prevent inmates from identifying themselves as gang members because prison later allowed uniform kufi); Caruso v. Zenon, 2005 WL 5957978, at\*20 (prison that required stocking cap or baseball cap failed to carry burden of establishing that outright ban on kufi was least restrictive alternative).

On the matter of Plaintiff's Eighth and Fourteenth Amendment medical claims, Plaintiff's allegations in his Complaint, Doc. 1, and the documents attached thereto, (ATTACHMENTS 5 - 8), conclusively demonstrate that the Defendants are aware that Plaintiff has a serious medical need and, notwithstanding their knowledge of the known and available treatment medically-indicated by Plaintiff's need, the Defendants have, pursuant to RI DOC Policy, refused and continue to refuse, for non-medical reasons, to provide treatment. What the Defendants have done, and continue to do here, is to show "deliberate indifference" to Plaintiff's serious medical needs, which -- pursuant to Estelle v. Gamble, 429 U.S. 97, 97 S.Ct. 285 (1976), and the cases flowing from it, including: U.S. v. DeCologero, 821 F.2d 39, 42 - 43 (1st Cir. 1987); Mahan v. Plymouth House of Corrections, 64 F.3d 14,18 (1st Cir. 1995); Kosilek v. Maloney, 221 F.Supp.2d 156,180 (D.Mass. 2002); Westlake v. Lucas,

537 F.2d 857, 860 (6th Cir. 1976)(cited with approval in ESTELLE, 429 U.S. at 105 n 11, 97 S.Ct. at 291 n 11)(where prison authorities deny reasonable request for medical treatment and such denial exposes the inmate "to undue suffering or the threat of tangible injury," deliberate indifference is manifest.); Ancata v. Prison Health Servs, 796 F.2d 700, 704 (11th Cir. 1985) (deliberate indifference is manifest where "knowledge of the need for medical care [is accompanied by the] ... intentional refusal to provide that care.") -- constitutes the "unnecessary and wanton infliction of pain" proscribed by the Eighth Amendment. Estelle, 429 U.S. at 104. The Eighth Amendment does not allow necessary medical care to be denied a prisoner because care is expensive or because it may be controversial. See, Kosilek, 221 F.Supp.2d at 181 - 83.

**B. There is substantial risk that Plaintiff will suffer  
irreparable harm if the injunction is withheld**

In the matter of Plaintiff's RLUIPA, First and Fourteenth Amendment claims, Plaintiff alleges that his right to freely exercise his religious has been violated by the enforcement of a RI DOC Policy which prohibits him from wearing his kufi at all times and places, except inside his cell and at some Islamic Services. The enforcement of such a policy is a clear violation of the RLUIPA, 42 U.S.C.S. section 2000cc et seq. Holt v. Hobbs, 135 S.Ct. 853,862, 190 L.Ed. 2d 747 (2015)(if Plaintiff's religious beliefs require him to wear his kufi "at all times," then a rule that allows him to wear his kufi "most of the time" imposes a substantial burden on his religious exercise because the Rule requires him to "engage in conduct that seriously violates his religious beliefs.") See Also Ali v. Stephens, 69 F.Supp.3d 633, 643-44, 2014 WL 5355529, at\*7 (E.D. Tex. Sep. 26, 2014); Malik v. Ozmint, 2008 WL 701517, at\*11 (D.S.C. Feb. 13, 2008); Caruso v. Zenon, 2005 WL 5957978, at\*18 (D.Colo. July 25, 2005)..

The loss of religious freedom caused by a RLUIPA violation — standing alone -- is sufficient to show irreparable harm and that the protection of religious practice is an important public interest. Staples v. Gerry, Civil No. 14-cv-473-JL, 2005 U.S. Dist. LEXIS 86629, at\*44, 47-48 (D.N.H. May 11, 2015)(citing cases),adopted with modifications sub nom., Staples v. N.H. State Prison 2015 WL 4067139.

In the matter of his Eighth and Fourteenth Amendment medical claims, Plaintiff argues that he will continue to suffer irreparable harm to his health and well-being as long as this Court allows the Defendants to adhere to official policies and practices which show deliberate indifference to Plaintiff's serious medical needs, by using non-medical factors (such as the expense of providing appropriate care) as their basis for denying Plaintiff the treatment that is medically-indicated to treat/cure his hepatitis C. Federal courts have routinely held that hepatitis C is clearly a serious medical problem, Erickson v. Pardus, 551 U.S. 89,94, 127 S.Ct. 2197,2200 (2007); Brown v. Johnson, 387 F.3d 1344, 1351 (11th Cir. 2004); Bender v. Regier, 385 F.3d 1133,1137 (8th Cir. 2004); Christy v. Robinson, 216 F.Supp.2d 398,404-05, 411, 414-16 (D.N.J. 2002). The Plaintiff has alleged, and the documents show, he has been denied treatment for his serious, potentially-deadly, medical need and that the Defendants have delayed, withheld, and denied Plaintiff the known and available cure, that he has repeatedly requested, for non-medical reasons. i.e., the expense of the medically-indicated treatment. Such conduct by prison officials is a clear violation of the Eighth Amendment. The Eighth Amendment does not permit necessary medical care to be denied to a prisoner because the care is expensive. See Kosilek, 221 F.Supp.2d 156,181-83 (D.Mass. 2002)(citing FARMER, 511 U.S. at 835-847, 114 S.Ct. 1970.)



In addition, Plaintiff is threatened with irreparable harm because of the nature of his hepatitis C, which, if not timely treated, will lead to liver cancer and his death.

As a matter of law, the continuing deprivation of constitutional rights constitutes irreparable harm. Elrod v. Burns, 427 U.S. 347,373, 96 S.Ct.2673 (1976). This principle has been applied to prison litigation generally, see Jolly v. Coughlin, 76 F.3d 468,482 (2d Cir. 1996); Newsom v. Norris, 888 F.2d 371,378 (6th Cir. 1989); McClendon v City of Albuquerque, 272 F.Supp.2d 1250, 1259 (D.N.M. 2003), and especially in prison medical care cases. Phillips v. Michigan Dep't of Corrections, 731 F.Supp. 792,801 (W.D. Mich. 1990), aff'd 932 F.2d 969 (6th Cir. 1991).

### C. The balance of hardships favors Plaintiff

In deciding whether to grant preliminary injunctions, courts ask whether the suffering of the moving party if the motion is denied will outweigh the suffering of the non-moving party if the motion is granted. See, e.g. Mitchell v. Cuomo, 748 F.2d 804,808 (2d Cir. 1984)(holding that dangers posed by prison crowding outweighed state's financial and administrative concerns); Duran v. Anyala, 642 F.Supp 510,527 (D.N.M. 1986)(holding that prisoners' interest in safety and medical care outweighed state's interest in saving money by cutting staff).

In the matter of Plaintiff's RLUIPA, First and Fourteenth Amendment claims, Plaintiff will continue to suffer the loss of blessings, inherent in his failure to comply with the command to keep his head covered at all times, in the event that the court allows the Defendants to continue enforcing a policy which prohibits Plaintiff from exercising this tradition of his religion. The "suffering" that the Defendants will experience if the court grants the motion will not be any greater than any "suffering" associated with their current duties of supervising the Dietary Workers who, per RI DOC Policy and/or

practice, are required to wear hats in all areas of the prison at all times. In this matter, the Defendants' hardship and/or "suffering" amounts to no more than business as usual.

In the matter of Plaintiff's Eighth and Fourteenth Amendment medical claims, the present emotional suffering and potential physical suffering are enormous, and include his untimely and preventable death. The "suffering" the Defendants will experience if the court grants the Order will consist of providing Plaintiff with the medication, that is known and available, to cure his hepatitis C; something that the Defendants are Constitutionally-obligated to do, and have done and continue to do for other prisoners. In this matter, the Defendants' hardship amounts to nothing more than business as usual.

**D. The relief sought will serve the public interest**

In this case, the grant of relief will serve the public interest because it is always in the public interest for prison officials to obey the law, especially the Constitution. Phelps-Roper v. Nixon, 545 F.3d 685,690 (8th Cir. 2008); Duran v. Anyala, 642 F.Supp. 510,527 (D.N.M. 1986)("Respect for law, particularly by officers responsible for the administration of the State's correctional system, is in itself a matter of the highest public interest."); Llewelyn v. Oakland County Prosecutir's Office, 402 F.Supp.1379 (E.D. Mich. 1975) (stating "the Constitution is the ultimate expression of the public interest.").

**POINT II**

**THE PLAINTIFF SHOULD NOT BE REQUIRED TO POST SECURITY**

Usually a litigant who obtains interim injunctive relief is asked to post security. Rule 65(c), Fed.R.Civ.P. However, the Plaintiff is an indigent prisoner and unable to post security. Elliott v. Kieseewetter, 98 F.3d 47,60 (3d Cir. 1996)(stating that district courts have discretion to waive the bond requirement contained in Rule 65(c) of the Federal Rules of Civil Procedure if

"the balance of the[ ] equities weighs overwhelmingly in favor of the party seeking the injunction"); Moltan Co. v. Eagle-Pitcher Industries, Inc., 55 F.3d 1171,1176 (6th Cir. 1995). In view of the clear violations of Plaintiff's rights under the RLUIPA, First, Eighth, and Fourteenth Amendments; and the serious medical consequences from his untreated hepatitis C; the court should grant the Plaintiff's request without requiring the posting of security.

#### CONCLUSION

For the foregoing reasons, this Court should grant the motion in its entirety.

Date: December 6 , 2016

*Leonard C. Jefferson, pro se*  
Leonard C. Jefferson, pro se